

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 58 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH  
and  
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME TAX

Versus

CHEMICOAT LTD.  
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Appearance:

1. INCOME TAX REFERENCE No. 58 of 1992  
MR AKIL KURESHI with MR MANISH R BHATT for Petitioner  
NOTICE SERVED for Respondent No. 1  
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CORAM : MR.JUSTICE M.S.SHAH  
and  
MR.JUSTICE D.A.MEHTA

Date of decision: 06/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue,  
the following question has been referred for our opinion  
in respect of assessment years 1982-83 and 1983-84 :-

"Whether, on the facts and in the circumstances  
of the case, the Tribunal was right in law in  
coming to the conclusion that the expenses of  
Rs.5,30,101/- for A.Y. 1982-83 and Rs.4,19,722/-  
for A.Y. 1983-84 incurred by the assessee for  
setting up a new unit was allowable as a revenue  
expenditure ?"

2. We have heard Mr Akil Kureshi, learned counsel  
for the revenue. Though served, none appears for the  
respondent-assessee.

3. Our attention is invited to the decision dated  
20.12.1999 of this Court in Income-tax Reference Nos.  
260 and 333 of 1984 between the revenue and this very  
assessee on the same controversy for assessment years  
1977-78 and 1978-79. In the said decision, this Court  
held that the amount spent by the Company was to be  
treated as revenue expenditure.

4. Following the aforesaid decision, our answer to  
the question referred to us is in the affirmative i.e.  
in favour of the assessee and against the revenue.

5. The reference accordingly stands disposed of with  
no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-